IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-03-2002

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

W.P.NO.24757 OF 2001 AND W.P.M.P.NO. 928 OF 2001

State Bank of India Schedule Castes/
Tribes Employees' Welfare Association,
rep. by its General Secretary,
22, Rajaji Salai,
Chennai 600 001. .. Petitioner

Vs.

State Bank of India,
rep. by its Chief General Manager,
Local Head Office,
Chennai. .. Respondents

Petition filed under Article 226 of the Constitution of India
for issuance of Writ of Mandamus as stated therein.

For Petitioner : Mr. Balan Haridass
For Respondent : Mr.N.R. Chandran
Advocate General
Mr.K.S. Sundar

: J U D G M E N T

This Writ Petition has been filed by State Bank of India Schedule Castes/Tribes Employees' Welfare Association for issuing an appropriate writ in the nature of Writ of Mandamus forbearing the respondent bank from conducting interview for the selection to the post of Junior Management Grade Scale-I without properly constituting the Interview Committee.

2. The petitioner Association has been founded with the avowed purpose for protecting the interest of employees of the State Bank belonging to Schedule Castes/Tribes. For the purpose of promoting the employees in the rank of clerk to Junior Management Grade Scale-I written test was conducted by the respondent bank and on the basis of the result in the written test, about 245 employees including about 50 employees belonging to Schedule Castes/Tribes were called for the interview. The petitioner Association learnt that the Interview Committee had been constituted consisting of a Deputy General Manager, three Assistant General Manager and a

Chief Manager and whereas a Deputy General Manager, three Assistant General Manager belonging to General Category had been nominated, only a Chief Manager belonging to SC/ST had been nominated to the Interview Committee. The grievance of the petitioner is that the aforesaid constitution of the Interview Committee is not in accordance with Clause 6.4 of the Brochure issued by the Central Government and at least a member of SC/ST in the cadre of Assistant General Manager should have been nominated instead of Chief Manager. It has been submitted that in the presence of senior officer such as Deputy General Manager and Assistant General Manager, a Chief Manager will not be in a position to raise his voice against any possible injustice against the candidates belonging to SC/ST and in accordance with clause 6.4 of the Brochure, an officer belonging to a higher rank should have been nominated.

3. A counter affidavit has been filed by the respondent wherein the contentions raised by the petitioner in the petition have been combated. It has been stated in the counter that since only few employees belonging to SC/ST community in the rank of Assistant General Manager were available within the Circle in question, a Chief Manager had been nominated in accordance with the administrative convenience. It has been further submitted that there is no hard and fast rule laid down in the brochure regarding nomination of an officer belonging to a particular ranky. It has been further submitted that final selection is to be made on the marks obtained in the written examination as well as experience, career of employees. It has been submitted that only 10 marks have been earmarked for the interview and keeping in view the low proportion of marks earmarked in the interview, no useful purpose would be served by directing fresh interview at this stage and the interview already held should not be disturbed.

4. Clause 6.4 of the brochure being relevant, is quoted hereunder :-

" Representation of Scheduled Castes/Tribes on Selection Boards and Departmental Promotion Committees.

(a) Departmental Promotion Committees, Selection Boards of recruiting authorities are, generally constituted with the departmental officers of appropriate status and background and keeping in view the nature of the post/posts for which recruitment/promotion is to be made. On all Departmental Promotion Committees /Selection Boards, constituted for the purpose of direct recruitment, a Scheduled Caste/ Scheduled Tribe Officer must be nominated and if an SC/ST officer of appropriate status is not available within the system, a person belonging to these communities from outside the system could be co-opted. In the case of promotions if an SC/ST officer of appropriate status/ seniority is not available, an officer who is holding a post even one stage higher than the post to which the selection is to be made could be nominated. For all promotions from sub-staff to the clerical cadre of the bank, from the clerical cadre to the lowest rung of the officers cadre and within the officers cadres of the bank from JMGSI to MMGS-II and MMGS-I and MMGS-II to MMGS-III, an SC/ST member of appropriate status will be associated with the DPCs even if none of the DPC does not have its presiding officer or at least one member belonging to the SC/ST communities, persons belonging to these communities of appropriate status within the organisation or outside it

would be nominated.
(b) The Scheduled Caste/Scheduled Tribe person nominated as a Member of the Selection Board/Departmental Promotion Committee shall attend all the sittings of the Selection Board/Departmental Promotion Committee of which he is the Member till the completion of the interview of all candidates - general candidates as well as Scheduled Caste and Scheduled Tribes candidates".

5. Learned counsel appearing for the petitioner has submitted that even though it is not specifically mentioned that members of the Interview Committee should belong to same scale, he has submitted that by using the expression "appropriate status" the indication is clear that the persons conducting the interview should be of equal rank, as a person belonging to much lower rank would not be in a position to express his independent opinion in the presence of several superior officers.

6. The reasons advanced in the counter affidavit to the effect that since less number of employees in the rank of Assistant General Manager belonging to SC/ST Community were available, an officer in the rank of Chief Manager has been nominated does not hold much better as in my opinion if some persons belonging to SC/ST community in the Assistant General Manager cadre were available, one could have been nominated in the place of the Assistant General Manager belonging to General Category and in the place of Chief Manager belonging to SC/ ST, a Chief Manager belonging to General Category could have been nominated. Submission of the learned counsel for the petitioner to the effect that the Chief Manager being directly subordinate to Assistant General Manager and being much lower than the Deputy General Manager may not be able to express his opinion in free, frank and forthright manner, cannot be said to be totally baseless.

7. It is said that devils rush in where angels fear to tread. An officer of a lower rank, unless he is a date devil may not gather sufficient courage to express his free and frank opinion on the fear of being snabbed or even victimised later. Therefore, one would ordinarily expect the respondents to include a member of SC/ST community of a sufficiently higher rank so as to allay any apprehension about the Interview Committee.

8. It is true, as rightly pointed out by the learned counsel for the respondent, clause 6.4 of the Brochure does not lay down inexorable condition in all cases members belonging to SC/ST should be of the same status as that of the other members of the Interview Board. Therefore, in the absence of any perceptible prejudice shown to have been caused to any candidate belonging to SC/ST community, the interview which had been already held need not be set at nought as adopting such a course and this belated stage is likely to cause further harassment to all the candidates including the candidates belonging to SC/ST community and delay the entire selection.

9. At the time of entertaining the writ petition, a learned single Judge of this Court had permitted the Bank to hold the interview and has observed that final selection should not be implemented without the leave of this Court.

10. A bare reading of Clause 6.4 makes it clear that the guidelines contained therein are elastic in nature and there is no clear specifications that in all cases the members belonging to SC/ST community should be of equal status to other members of the Interview Committee. It is of course true that justification given in the counter affidavit for selecting a Chief Manager belonging to SC/ST instead of selecting an Assistant General Manager does not appear to be sound, yet in the absence of any prejudice, it is not a fit case where the interview already held should be scrapped. It is however made clear that while constituting such Interview Committee in the future, it would be more appropriate to the Management to nominate a member belonging to SC/ST community of sufficiently higher grade so that the apprehension expressed in the present case by the writ petitioner would not arise in future.

Subject to the aforesaid observations, the writ petition is disposed of . All the interim orders stand vacated.

-03-2002
Index : Yes / No
Internet : Yes
dpk

To

State Bank of India,
rep. by its Chief General Manager,
Local Head Office,Chennai.

Judgment in W.P.24757/2001
& W.P.M.P.NO.928 OF 2001